

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Plaintiff HP TUNERS, LLC (“HPT”), by and through its undersigned legal counsel, and Defendant KENNETH CANNATA (“Cannata”), by and through his undersigned legal counsel, hereby request that this Court enter an Order approving this Stipulation relating to HPT’s *Emergency Motion for Temporary Restraining Order and Preliminary Injunction and Consolidated Memorandum in Support* [ECF No. 19] (the “Emergency Motion”).

RECITALS

WHEREAS, HPT filed its Emergency Motion on April 23, 2019 requesting that the Court enter a temporary restraining order and preliminary injunction enjoining Cannata from engaging in certain conduct relative to confidential and proprietary information belonging to HPT;

WHEREAS, this Court entered its *Order* [ECF No. 25] (“TRO”) on April 24, 2019 in which it granted in part and denied in part, without prejudice, the relief requested by HPT through the Emergency Motion; and

WHEREAS, Cannata generally denies the allegations asserted against him in HPT's Emergency Motion but has reached an agreement with HPT to extend the TRO as a preliminary injunction upon the terms and conditions set forth herein.

STIPULATION

NOW THEREFORE, in consideration of the foregoing recitals, HPT and Cannata hereby stipulate and agree as follows:

1) The TRO is hereby extended as a preliminary injunction to remain effective as against Cannata until such time as this Court may order that such preliminary injunction be modified or vacated.

2) For so long as this preliminary injunction remains in effect, Cannata, his agents, and any persons acting in concert with him (including but not limited to Kevin Sykes-Bonnett), shall not and are hereby ENJOINED from the following activities:

- a. Releasing any confidential or proprietary intellectual property belonging to HP Tuners to the public;
 - b. Releasing or selling any products or services that have been developed using HP Tuners' proprietary code, including "the hardware device developed by [Cannata] in connection with the Syked ECU Tuning, Inc. software solution";
 - c. Releasing or selling any products or software based on or derived from HP Tuners' software or products;
 - d. Developing, planning, designing, researching, or, in any way creating any software or hardware based on or derived from HP Tuners' proprietary intellectual property;

- 1 e. Destroying, selling, concealing, or modifying any electronic storage devices,
2 including but not limited to USB flash drives, mobile phones, servers, FTP
3 servers, computers, hard drives, and solid-state drives that they have used since
4 January 1, 2016;
- 5 f. Destroying, concealing, or modifying any communications received from
6 Syked ECU Tuning, Inc., Kevin Sykes-Bonnett, and John Martinson, since
7 January 1, 2016; and
- 8 g. Destroying, selling, concealing, or modifying any of HP Tuners' proprietary
9 intellectual property that may be in their possession, including hardware
10 devices and physical documents.

11 3) The \$5,000 bond posted with the Clerk of Court shall be returned to HPT, and no
12 additional security shall be required as a condition of the entry of an order approving this
13 Stipulation.

14 4) The entry of an order approving this Stipulation shall fully resolve HPT's
15 Emergency Motion without prejudice to HPT's rights to seek to modify this preliminary injunction
16 or to seek other injunctive relief through the filing of a separate motion.

17 5) By entering into this Stipulation and consenting to the entry of this preliminary
18 injunction, Cannata does not admit any wrongdoing of any kind or waive any right or defense
19 related to the matters addressed in this Stipulation, the TRO, or HPT's Emergency Motion.

20 6) Either HPT or Cannata may petition the Court to modify or vacate this preliminary
21 injunction at any time.

22 7) In the event that either party files a motion requesting that the Court modify or
23 vacate this preliminary injunction, the Court shall schedule a hearing to consider such motion to
24 take place at the Court's earliest available hearing date on not less than thirty (30) days' notice.

25 8) The parties consent to the entry of an order approving this Stipulation.

1 DATED this 7th day of May, 2019.

2 LEE HIGH, LTD.

KOLESAR & LEATHAM

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4 /s/ Elizabeth High, Esq.
CECILIA LEE, ESQ.
ELIZABETH HIGH, ESQ.

/s/ Bart K. Larsen, Esq.
BART K. LARSEN, ESQ.
Attorneys for Defendant Kenneth Cannata

6 MARKS & KLEIN

7
8 /s/ Andrew P. Bleiman, Esq.
ANDREW P. BLEIMAN, ESQ.
9 Attorneys for Plaintiff HP Tuners, LLC

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12 **IT IS SO ORDERED.**

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14 
15 HONORABLE LARRY R. HICKS
16 UNITED STATES DISTRICT JUDGE

17 DATED: this 9th day of May, 2019.